



**TESTIMONY
CONNECTICUT WATER WORKS ASSOCIATION, INC.
BEFORE THE PUBLIC HEALTH COMMITTEE
MARCH 12, 2008**

RE: HB-5900, AN ACT CONCERNING WATERSHED LANDS

The Connecticut Water Works Association, Inc. (CWWA) is an association of public water supply utilities serving more than 500,000 customers, or population of about 2½ million people, located throughout Connecticut. Membership in the Association is open to all Connecticut water utilities: investor-owned, municipal and regional authorities. CWWA is committed to working with the state to develop policies that will ensure that Connecticut has a safe, ample supply of water to meet present and future needs.

Although we strongly *support the intent of HB-5900*, to further protect watershed lands to ensure water quality of public water supplies, we must *oppose the bill, as currently drafted*.

We believe that the proponents of this bill intended to seek further protection of watershed lands that *are not owned by the water company or otherwise subject to conservation easements*, however, the current language suggests the measures would apply to proposed development of water company lands. Lands owned by a water company, defined as Class I and Class II lands in Section 25-37c of the CGS, are highly regulated under current law. For example, under current law, water companies cannot lease or assign Class I lands and such lands can only be sold to the state, a municipality, or another water company. The buyer must agree to maintain the land subject to the restrictions in the law and those imposed by a permit authorized by the state Department of Public Health. The company can change the land's use only if it demonstrates that the change (1) will not harm the purity and adequacy of water supply, now or in the future and (2) is consistent with a DPH approved water supply plan filed by the company. As such, applying this legislation to water company lands would have little impact on land use or developments in public water supply watersheds.

However, there are situations where public water supply watershed lands are owned by private parties and not subject to the same rigorous protections as Class I and Class II lands. While there are very specific statutory definitions for water company owned land, lands owned by others generally are considered to be on a public water supply watershed if they are within drainage basin of a reservoir or major stream that runs into a water supply source or in a delineated aquifer protection area.

Clearly, protecting non-water company owned public water supply watershed lands is critical to ensuring the quality of our public water supplies. Fortunately, Connecticut has taken several important steps to protect watershed lands. In fact, the state has made tremendous progress in achieving its goal of preserving a greater percentage of open space lands under the state's Open Space & Watershed Acquisition program and other incentive programs that have encouraged the protection of open space and watershed lands. However, as the state faces additional pressure to develop land for housing and industrial uses, it is becoming increasingly important that we consider the impact of such growth on the state's water resources and public water supplies. CWWA has advocated that the concepts of

watershed protection and water quality be incorporated to the planning efforts in the state's Smart Growth initiatives, and believes that may allow for the more comprehensive approach that is necessary to address these issues.

We therefore support the intent of the bill, to protect and *preserve non-water company owned public water supply watershed lands*, but are concerned that the bill, as drafted, does not come close to achieving that goal.

Specifically, we have the following concerns with the bill, as drafted:

Section 1 – This section eliminates Section 8-3i(c) of the general statutes. This section reflects a compromise enacted when the original notification language was negotiated. It reflects the recognition that there are situations where the zoning body of a town should be authorized to act without notifying DPH or water companies. Typically, these involve activities such as approvals for sheds, decks, residential home additions and other minor activities. To our knowledge, there have not been instances where this provision has resulted in the approval of activities that adversely affected our watershed. It provides a balanced approach to ensuring that towns are able to act on certain issues that clearly will not impact the public water without the additional notification requirements. We therefore oppose Section 1.

Section 2 – This section requires DPH to approve all applications concerning the sale of development of “water company land”. As pointed out previously, water company lands are already highly regulated. We therefore oppose this provision. The intent of the proponents of the bill is to address concerns associated with non-water company watershed lands. Further, we believe there would be tremendous pressure on the Department to adopt regulations by the October 2009 deadline, as in essence there would be a moratorium on development in much of the state in the interim. Given the importance of these regulations, we would want to ensure there is adequate time to develop meaningful regulations with sufficient stakeholder involvement. We therefore urge deletion of Section 2.

Section 3 – Requiring the state Department of Public Health to comment on each and every change in municipal plans of conservation and development, zoning regulations, municipal approval of permits, licenses, etc. would be a tremendous, if not impossible, burden on the department's resources. Moreover, to fulfill this goal, the department would be forced to shift a disproportionate amount of staff time to tasks which may result in little or no benefit to the protection of the state's public water supplies. This shift in resources would be to the detriment of current functions that are more critical to efforts to ensure the purity and adequacy of the state's public water supplies. We therefore urge deletion of Section 3.

CWWA does, however, believe that it is worthwhile to continue the dialogue as to how to move forward with legislation to protect non-water company owned lands from development that will impede the water quality. To that end, we support legislation to strengthen the role of the state Department of Public Health and water companies in commenting on proposed developments in watershed or aquifer areas by requiring such comments to be considered by local land use agencies as well as on appeal in the courts. We have also long-supported source water protection measures, such as incentives for preserving and protecting open space and watershed lands, comprehensive aquifer protection laws and regulations, and protection of Class I and Class II water company lands. We are ready to work with the Committee and any interested parties on an alternative language if you decide you want to move forward with this proposal.